

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**AMERICAN MEDICA, et al.,
Plaintiffs,**

v.

**TIMOTHY LEE THOMPSON, et al.,
Defendants.**

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Civil Action No. 3:16-CV-3259-BH

Consent Case

ORDER OF DISMISSAL

By order filed January 30, 2017, this matter has been transferred for the conduct of all further proceedings and the entry of judgment. Before the Court is the plaintiffs' *Stipulation of Dismissal*, filed on July 24, 2017 (doc. 29). The filing states that the plaintiffs no longer intend to pursue their claims against the defendants and seek to voluntarily dismiss them, and that the defendants agree to the dismissal.

Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure provides that a plaintiff may dismiss his action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Here, both defendants have answered, so the plaintiffs may only voluntarily dismiss this action without a court order by filing a stipulation of dismissal signed by all parties who have appeared. Fed. R. Civ. P. 41(a)(1)(A)(ii).¹ Because the stipulation is not signed by the defendants, it is construed as an unopposed motion to dismiss this

¹ Stipulated dismissals under this rule "require no judicial action or approval and are effective automatically upon filing." *Yesh Music v. Lakewood Church*, 727 F.3d 356, 362 (5th Cir. 2013); *see also SmallBizPros, Inc. v. MacDonald*, 618 F. 3d 458, 461-64 (5th Cir. 2010). "The Fifth Circuit has relaxed Rule 41(a)(1)'s written stipulation requirement when the parties' agreement is 'unequivocal and in the record,' ..., and in those instances, the Court can presume that the parties would have signed a written stipulation had they contemplated it." *Carter v. H2R Restaurant Holdings, LLC*, No. 3:16-CV-1554-N, 2016 WL 8116145, at *4 (N.D. Tex. Dec. 15, 2016), rec. adopted, 2017 WL 395166 (N.D. Tex. Jan. 27, 2017) (citations omitted).

action under Rule 41(a)(2), and it is hereby **GRANTED**. All attorney's fees and costs of court shall be borne by the party incurring same.

SO ORDERED on this 25th day of July, 2017.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE